

**ORDINANCE NO. 23-2008**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY,  
ALABAMA:**

**SECTION 1. Definitions.** For the purpose of this Ordinance, the following words or phrases shall have the meaning ascribed in this section:

- (1) "Director" means the Mayor of the City of Montgomery or his designee.
- (2) "Department" means the Department of Finance of the City of Montgomery.
- (3) "Employ" or "employment" means any work engaged in for compensation in money or other valuable consideration and for which a person paying the compensation for the work performed is required to file a "Form W-2" wage and tax statement or Form 1099 with the federal internal revenue service.
- (4) "Illegal alien" means a person who is at the time of employment neither an alien who is lawfully admitted for permanent residence in the United States pursuant to the federal Immigration and Naturalization Act nor authorized to be employed by the federal Immigration and Naturalization Act or the United States attorney general.
- (5) "Knowingly" means having actual knowledge that a person is an illegal alien or having a duty imposed by law to determine the immigration status of an illegal alien and failing to perform such duty.
- (6) "Lawful resident alien" means a person who is entitled to lawful residence in the United States pursuant to the federal Immigration and Naturalization Act.
- (7) "Lawful resident verification information" means the documentation that is required by the United States department of homeland security when completing the employment eligibility verification form commonly referred to as the federal "Form I-9". Documentation that later proves to be falsified, but that at the time of employment satisfies the requirements of the "Form I-9," is lawful resident verification information.
- (8) "License" means any certificate, approval, registration or similar form of permission required by law.
- (9) "Person" means individual, corporation, partnership, association or any other legal entity.

**SECTION 2.**

A person shall not knowingly employ, recruit or refer for a fee for employment, an illegal alien or pay compensation to an employee or contractor for division of such payment with any illegal alien, or knowingly participate in any scheme whereby an illegal alien is engaged, directly or indirectly, to perform work for compensation in money or other valuable consideration.

**SECTION 3.**

A person has not violated Section 2 with respect to a particular employee if:

- (a) the person:
  - (1) Requested from the employee, received, and documented in the employee record at least fourteen (14) calendar days after commencement of employment lawful resident verification information consistent with employer requirements under the Immigration Reform and Control Act of 1986; and

- (2) The lawful resident verification information provided by the person later was determined to be false.
- (b) the person verified the immigrant status of the person at least fourteen (14) calendar days after commencement of employment by using the federal electronic work authorization verification service provided by the United States Department of Homeland Security pursuant to the Federal Basic Pilot Program Extension and Expansion Act of 2003.

#### SECTION 4.

- (e) If any state or local government agency, officer, employee or entity has reason to believe that a violation of this Section 2 has occurred, the agency, officer, employee or entity shall file a complaint with the department. Upon receipt of the complaint, the Director shall conduct an investigation. If there is substantial evidence that a violation of subsection (b) has occurred, the Director shall conduct a contested case hearing pursuant to the Alabama Administrative Procedure Act, compiled in Title 41, Chapter 22, *Code of Alabama* 1975, as amended on the question of whether such person has violated s Section 2. If the director or the director's designee determines that there is clear and convincing evidence that a person has violated Section 2 and such violation occurred while the person was acting within the scope of practice of a license issued by the City of Montgomery or the Director shall with respect to business licensure revoke, suspend, or deny the person's license. The Director shall state in its findings of fact and conclusions of law whether there has been a previous violations of Section 2.

#### SECTION 5. PENALTIES.

The penalties for violating Section 2 shall be as follows:

- (1) For the first violation of Section 2, the Director shall order a suspension of the person's license until the person shows to the satisfaction of the Director that the person is no longer in violation of Section 2. Such showing may be made by the person filing a sworn statement with the Director stating that the person is no longer employing illegal aliens.
- (2) For the second violation of Section 2 occurring within three (3) years from the issuance of the Director's first order, the Director shall order the suspension of the license for one (1) year.
- (3) For a third violation of Section 2 occurring within three years of the issuance of the Director's first order, the Director shall order the permanent revocation of the license and issue an order prohibiting the violator from doing business within the City.


SECTION 6. This ordinance shall become effective upon passage, approval, and publication or as otherwise provided by law.

Adopted this 20<sup>th</sup> day of May, 2008

Approved: 5/22/08

  
BOBBY N. BRIGHT, MAYOR

ATTEST:

  
BRENDA GALE BLALOCK, CITY CLERK